

TD 92/153 - Income tax: who is a 'person who holds an office' as specified in various regulations made under the International Organisations (Privileges and Immunities) Act 1963 ?

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! This document has changed over time. This is a consolidated version of the ruling which was published on *10 September 1992*

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part 4VAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, the Determination applies to transactions entered into both before and after its date of issue.

Taxation Determination

Income tax: who is a 'person who holds an office' as specified in various regulations made under *the International Organisations (Privileges and Immunities) Act 1963*?

1. Salaries and emoluments received from an international organisation by a **person who holds an office** in that organisation may be exempt from Australian income tax under regulations made under the *International Organisations (Privileges and Immunities) Act 1963* (IO(P+I)A). The availability and extent of exemption varies from organisation to organisation, and in this regard individual regulations should be consulted. The question arises, however, who is a 'person who holds an office' for the purposes of the regulations under the IO(P+I)A.
2. The Department of Foreign Affairs and Trade, who administer the IO(P+I)A and regulations, take the view that the phrase 'person who holds an office' in relation to a prescribed international organisation covers those people who work as employees for that organisation. They do not accept, however, that the phrase includes either:
 - . persons who are locally engaged by the organisation and paid at an hourly rate; or
 - . persons engaged by the organisation as experts or consultants.

We agree with those views.

3. In determining whether a person holds an office, the relevant international organisation is required to apply these tests. As a practical matter, if the international organisation designates a person as one who holds an office in that organisation, we will accept, in the absence of contrary evidence, that this designation is sufficient evidence of the status of that person. If the other requirements of the regulations are satisfied, that person will be entitled to the privileges and immunities available to a person who holds an office in that organisation.

Note: For experts or consultants who are Australian residents, income received from the international organisation may be exempt under section 23AG of the *Income Tax Assessment Act 1936*. For more details, reference should be made to the provisions of 23 AG.

Commissioner of Taxation
10/09/92

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